

VEB Docket No. 16-VER-1
Rules Clearinghouse No. TBD

Hearing Draft
October 28, 2016

**PROPOSED ORDER
OF THE WISCONSIN VETERINARY EXAMINING BOARD
ADOPTING RULES**

The Wisconsin veterinary examining board hereby proposes the following rule *to amend* VE 1.02 (9); *relating to* the definition of veterinary medical surgery, and affecting small business.

Analysis Prepared by the Veterinary Examining Board

The Wisconsin Veterinary Examining Board (VEB) proposes a rule revision for ch. VEB 1, Wis. Adm. Code, to broaden the definition of surgery removing the limitation in s. VEB 1.02 (9), Wis. Adm. Code, to procedures that are for therapeutic purposes, and also specifying additional procedures exempted from the definition.

Statutes Interpreted

Statute Interpreted: ss. 89.01 (6) and 89.05 (1), Stats.

Statutory Authority

Statutory Authority: s. 89.03 (1), 227.10 and 227.11, Stats.

Explanation of Statutory Authority

VEB has specific authority, under the provisions cited above, to adopt rules establishing the scope of practice permitted for veterinarians

Related Statutes and Rules

VEB administers ch. 89, Stats., as well as the administrative rules in VE 1-10, Wis. Adm. Code, and in the administration of these statute and rules, VEB may issue administrative orders imposing discipline for unprofessional conduct related to the practice of veterinary medicine, including issuing an administrative warning to, or reprimanding, any person holding a veterinary medical license, or denying, revoking, suspending, limiting, the person's license, as specified by statute.

Plain Language Analysis

Currently, in s. VE 1.02 (9), Wis. Adm. Code, the definition of surgery, for veterinary medical practice, is limited to procedures that are for therapeutic purposes. This leaves uncertainty for the profession and the VEB, as to whether surgeries for other purposes, including reproduction and cosmetic changes, are included. A change to the definition is important to clarify that surgical procedures are broader than for therapeutic purposes, only, but also specifying additional procedures not considered surgery. This will ensure all persons, who are subject to these rules, are on notice as to practice conduct falling within the VEB's jurisdiction.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

There are no federal regulations governing the practice of veterinary medical surgeries.

Comparison with Rules in Adjacent States

None of the surrounding states of Illinois, Indiana, Iowa, Michigan or Minnesota, have their own definition of surgery for the purpose of practicing veterinary medicine. Illinois does include animal reproductive services in the definition of the practice of veterinary medicine. Iowa does include cosmetic surgery in the practice of the veterinary medicine definition.

Summary of Factual Data and Analytical Methodologies

This rule was developed after consultation with veterinary medical groups and looking at other state rules related to veterinary surgery.

Effect on Small Business

This rule change is anticipated to have an effect on small business, as many veterinary practices that will be subject to this definition change, are small businesses. To the extent that the proposed rule will clarify what is included in the practice of veterinary medicine, this may have a positive impact in giving certainty to veterinarians concerning the regulation of surgery for reproductive, cosmetic and other purposes that do not fall clearly within the notion of "therapeutic".

This rule will not have a significant adverse economic effect on "small business" so it is not subject to the delayed "small business" effective date provided in s. 227.22 (2) (e), Stats.

VEB Contact

Cheryl Daniels, Board Counsel
Veterinary Examining Board
c/o Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5026 E-Mail: Cheryl.Daniels@Wisconsin.gov

Where and When Comments May Be Submitted

Questions and comments related to this rule may be directed to:

Kelly Monaghan, Office Management Specialist
Office of the Secretary
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-5023
E-Mail: Kelly.Monaghan@Wisconsin.gov

Rule comments will be accepted up to two weeks after the last public hearing is held on this rule.
Hearing dates will be scheduled after this rule is approved by the Veterinary Examining Board.

1 **SECTION 1.** VE 1.02(9) is amended to read:

2 (9) “Surgery” means any procedure in which the skin or tissue of the patient is penetrated or severed
3 ~~for therapeutic purposes, except for the following activities identified in s. 89.05 (2). Surgery does not~~
4 ~~include giving injections or simple dental extractions that require minor manipulation and minimal~~
5 ~~elevation.;~~

6 (a) Activities identified in s. 89.05(2), Stats.

7 (b) Simple dental extractions that require minor manipulation and minimal elevation,

8 (c) Giving injections.

9 (d) Subcutaneous insertion of a microchip intended to be used to identify an animal.

10 **SECTION 2. EFFECTIVE DATE AND INITIAL APPLICABILITY.** This rule takes effect on the first
11 day of the month following publication in the Wisconsin administrative register, as provided under s.
12 227.22(2)(intro.).